

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

DANA BERRY, et al.,)
)
Plaintiffs,)
)
v.) CASE NO. 1:21-CV-488-KFP
)
APPLE, INC.,)
)
Defendant.)

RULE 26(f) ORDER

The parties are reminded of the obligation imposed by Rule 26(f) of the Federal Rules of Civil Procedure to confer and develop a proposed discovery plan and other information required for filing the report of the parties' planning meeting. Accordingly, it is ORDERED that the parties confer and submit a report based on the trial terms and scheduling order requirements of the Middle District of Alabama. The Rule 26(f) report is due by **September 8, 2021**.

Dispositive motions should be filed at least 120 days before the pretrial conference. If the parties seek to vary from that schedule, they should present specific case-related reasons for the requested variance. In their Rule 26(f) report, however, the parties should assume that the 120-day requirement will apply when the Court enters the Rule 16(b) Uniform Scheduling Order.

It is also this Court's policy that the Rule 26(a)(3) witness list exchange, deposition designations, and exchange of trial exhibits and evidence will occur at least 42 days before

trial to allow time for filing and resolution of objections and related motions. The parties may agree to longer deadlines, but shorter deadlines ordinarily will not be allowed.

This case ordinarily will be set for trial during one of the presiding judge's regularly scheduled civil trial terms within 14 to 16 months of this Order if a term is available. The pretrial date is normally set four to eight weeks before trial. Each judge's civil trial terms are available on the Court's website at www.almd.uscourts.gov.

The Court may or may not hold a scheduling conference before issuing a scheduling order. If the Court holds a scheduling conference, counsel will be advised whether the conference will be held in person, by ZoomGov meeting, or by telephone conference. The scheduling order entered by the Court will follow the form of the Uniform Scheduling Order adopted by the judges of this Court, which is also available on the Court's website.

The parties were previously notified of the assignment of this case to a Magistrate Judge and their right to request reassignment (see attached notice). As indicated in the notice, the parties should now confirm their decision in writing to consent or request reassignment. *See Rembert v. Apfel*, 213 F.3d 1331 (11th Cir. 2000). Counsel for the parties are DIRECTED to complete the appropriate attached form and send it to the Clerk of the Court by **September 8, 2021**. Alternatively, as explained in the attached notice, a party may consent electronically, but neither the consent form nor the request for reassignment form should be filed electronically.

DONE this 18th day of August, 2021.

/s/ Kelly Fitzgerald Pate
KELLY FITZGERALD PATE
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

**NOTICE OF ASSIGNMENT TO
UNITED STATES MAGISTRATE JUDGE**

This civil case has been randomly assigned to a United States Magistrate Judge of this Court. In accordance with 28 U.S.C. 636(c), the Magistrate Judges of this court are designated to conduct any and all proceedings in a jury or non-jury civil case and order the entry of final judgment upon consent of all parties. Any appeal from a judgment entered by a Magistrate Judge is taken directly to the Eleventh Circuit Court of Appeals in the same manner as any appeal from a judgment entered in this Court.

As a party to this lawsuit, you have the right to consent or decline to consent to the jurisdiction of a Magistrate Judge. **Litigants, without concern for any adverse consequences, freely may decline consent to the jurisdiction of a Magistrate Judge.** If you decline consent to the jurisdiction of a Magistrate Judge, this case will be reassigned randomly to a District Judge; however, the Magistrate Judge will continue in the case for the purpose of entering a report and recommendation in accordance with 28 U.S.C. § 636(b).

To consent to the jurisdiction of a Magistrate Judge, you may complete the attached form and return it to the Clerk of the Court within 21 days from the date of this order. **The attached consent form should NOT be electronically filed into the record.** However, a party's **consent may be submitted electronically.** If a party elects to consent and wishes to do so electronically, counsel may log into the Case Management/Electronic Case File

(CM/ECF) system, select the Magistrate Judge Consent Form event, and electronically prepare and submit a consent form. If you have any questions about electronic consent submission, please contact the Clerk's Office.

If a party elects to request reassignment to a District Judge, counsel must complete the attached form and mail it to the Clerk's Office. There is no option to log into CM/ECF and electronically submit the reassignment form. If a party declines to consent to the jurisdiction of a Magistrate Judge or to complete and submit one of the attached forms by the date set in this Order, this case will be reassigned randomly to a District Judge.

If consenting to a Magistrate Judge's jurisdiction in writing or requesting reassignment to a District Judge, the completed form may be mailed to the following address:

Clerk, U.S. District Court
One Church Street
Room B-110
Montgomery, Alabama 36104

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**CONSENT TO JURISDICTION BY
A UNITED STATES MAGISTRATE JUDGE**

In accordance with Title 28, U.S.C. § 636(c), the undersigned party or parties to the above-captioned civil matter confirms in writing their consent to a United States Magistrate Judge conducting any and all further proceedings in the case, including trial, and ordering the entry of a final judgment.

Signed this ____ day of _____, 20____.

Signature

Counsel For

Address

City, State, Zip Code

(Area Code) Telephone Number

****DO NOT ELECTRONICALLY FILE THIS DOCUMENT****

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**REQUEST FOR REASSIGNMENT OF CASE
TO A UNITED STATES DISTRICT JUDGE**

The undersigned party has read the Notice of Assignment to United States Magistrate Judge and declines to consent to the Magistrate Judge's exercise of civil jurisdiction in this case. The undersigned party requests reassignment of this case to a United States District Judge. **The party understands that this request may not be revoked.**

Signed this ____ day of _____, 20____.

Signature

Counsel For

Address

City, State, Zip Code

(Area Code) Telephone Number

****DO NOT ELECTRONICALLY FILE THIS DOCUMENT****